

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUÑIZ,
MARCUS MARTIN, NATALIE ROMERO,
CHELSEA ALVARADO, JOHN DOE, and
THOMAS BAKER,

Plaintiffs,

v.

JASON KESSLER, et al.,

Defendants.

Civil Action No. 3:17-cv-00072-NKM

JURY TRIAL DEMANDED

**SUPPLEMENTAL BRIEF IN SUPPORT OF PLAINTIFFS'
MOTION TO COMPEL THE DEPOSITION
OF ROBERT "AZZMADOR" RAY**

On July 14, 2020, after Defendant Robert “Azzmador” Ray failed to appear for his properly noticed deposition—the latest in a long line of well-documented discovery violations in this litigation—Plaintiffs were forced to move the Court to compel Ray to appear for his deposition and to sanction Ray for his misconduct. *See* Pls.’ Mot. to Compel Dep. of Def. Robert “Azzmador” Ray, July 14, 2020, ECF No. 803. On July 22, 2020, the Court ordered Plaintiffs to file a new notice of deposition for Ray’s rescheduled deposition. *See* Oral Order, July 22, 2020, ECF No. 811. On July 23, 2020, Plaintiffs accordingly served Ray with a revised notice rescheduling the deposition for July 29, 2020, and filed that notice under seal. *See* Pls.’ Notice of Dep. of Def. Robert “Azzmador” Ray, July 23, 2020, ECF No. 813. On July 23, 2020, the Court then granted Plaintiffs’ request to be reimbursed for their reasonable fees and expenses caused by Ray’s failure to attend his July 13, 2020, deposition, and ordered Ray to appear for his rescheduled deposition

on July 29, 2020. *See* Order to Def. Robert “Azzmador” Ray, July 23, 2020, ECF No. 814. In its order, the Court explicitly warned Ray:

The Court expects Ray to appear and participate in good faith as required by the Federal Rules of Civil Procedure. **Defendant Robert “Azzmador” Ray is hereby warned that his failure to comply with this Order may result in a bench warrant being issued for his arrest and the United States Marshal taking him into custody and transporting him to this judicial district to appear and show cause why he should not be held in contempt of court.**

Id. at 1 (emphasis in original).

On July 29, 2020, Ray failed to appear for his deposition a second time. Just as before, at no point in time before July 29, 2020, did Ray inform Plaintiffs that he did not plan to attend his deposition. As before, when Ray failed to appear, Plaintiffs’ counsel attempted to contact him by phone and email. Ex. A (Barkai Email to Ray, July 29, 2020). Ray did not respond to those efforts. Plaintiffs’ counsel, Defendants’ counsel, the court reporter, and the videographer waited for half an hour after the deposition was scheduled to begin before Plaintiffs’ counsel made a statement on the record. Ex. B (Certificate of Nonappearance, July 29, 2020).

Ray’s contemptuous defiance of multiple properly served deposition notices and numerous Court orders—indeed, his apparent wholesale disappearance from this litigation—should not be countenanced. Plaintiffs respectfully request that, as the Court warned Ray would occur, the Court issue a bench warrant for Ray’s arrest, hold Ray in custody until his deposition may take place, and require Ray to appear and show cause why he should not be held in contempt of court. Plaintiffs also request that the Court order Ray to pay Plaintiffs’ reasonable expenses incurred in arranging Ray’s July 29, 2020, deposition, and in filing this supplemental brief in support of their

motion, including reasonable attorneys' fees and costs.¹

Dated: August 5, 2020

Respectfully submitted,

/s/ Robert T. Cahill

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¹ Ray's ongoing failures and deficiencies in discovery also provide further reasons to grant Plaintiffs' separate motion for evidentiary sanctions against Ray. *See* Pls.' Mot. for Sanctions, June 1, 2020, ECF No. 750.

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CERTIFICATE OF SERVICE

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I further hereby certify that on August 5, 2020, I also served the following non-ECF participants, via electronic mail, as follows:

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